

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MICHELLE HUESTON GREEN,

Plaintiff,

v.

1:21-cv-00087-LF-JMR

MERRICK B. GARLAND,
Attorney General,

Defendant.

ORDER DENYING MOTION AND VACATING HEARING

THIS MATTER comes before the Court on plaintiff's Motion to Compel Specific Discovery (Doc. 52) filed on June 2, 2023. The defendant filed a response on June 27, 2023. Doc. 58. On July 25, 2023, plaintiff filed a reply. Doc. 67. In the reply, plaintiff stated that her "motion to compel is now moot," as the parties have resolved their discovery dispute. *Id.* at 2. Defense counsel concurs. *Id.* at 3.

Under Federal Rule of Civil Procedure 37(a)(5)(A), if the requested discovery is provided after a motion to compel was filed, the Court must order the party whose conduct necessitated filing a motion to pay the movant's incurred fees, including attorney's fees. Here, some supplemental discovery was provided after the motion to compel was filed. Doc. 67 at 2. However, plaintiff did not request attorney's fees, and plaintiff did not adequately meet and confer with the defendant before filing this motion. Doc. 63. Therefore, as authorized by Rule 37(a)(5)(A)(iii), I decline to award payment of fees for this matter.

The Court hereby DENIES the Motion to Compel (Doc. 52) as moot. The motion hearing set for July 31, 2023, at 11:00 a.m. (see Doc. 63) is hereby VACATED.



JENNIFER M. ROZZONI
United States Magistrate Judge